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"State Safety Oversight Program"

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Mr. Chairman and members of the subcommittee, thank you for this opportunity to testify on behalf of the U.S. Department of Transportation, about the Federal Transit Administration's (FTA) State Safety Oversight (SSO) Program. I would also like to take this opportunity to thank Government Accountability Office (GAO) for the thoroughness of the review it conducted over the last year, and for its recommendations to strengthen further the SSO Program. Finally, I would like to extend my appreciation to the representatives of the agencies here to testify before this Committee today.

In this written testimony, I highlight many accomplishments of the SSO Program, as well as background on how we have developed the program to be the success we believe it is today.

The SSO program affects 26 States and 43 rail transit agencies nationwide. Collectively, the SSO community has much to be proud of. Rail transit provides more than 3 billion passenger trips each year, and moves millions of people each day.

As reported by the National Transportation Safety Board (NTSB) in its Safety Report for 2004, rail transit is responsible for less than 0.1 percent of the 44,870 transportation fatalities that occurred in the United States that year. In addition, rail transit was responsible for less than 0.15 percent of the nation's 3.5 million transportation-related injuries, and less than 0.06 percent of the nation's total transportation-related property damage.

Of course, unfortunately, accidents do occur in rail transit, and the potential for a catastrophic event remains. FTA is committed to continual improvement in the industry, and works everyday to ensure the safety of rail transit passengers, employees, emergency responders, and all others who come into contact with these systems.

This morning, in these few minutes, I would like to discuss the key aspects of the program, including changes to the program in our final rule published last year, the key

improvements to the program specified in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) and how we are implementing those, and finally, to highlight areas that we are working to improve.

Background on the SSO Program and Changes in the Rule

First, by way of introduction, Mr. Chairman, your committee authorized the SSO program in 1991, in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). FTA published a final rule in 1995, with a phased-in effectiveness period. States and rail transit agencies had to be in compliance with all of the rule's requirements by January 1, 1998. Today, the rule remains codified in Title 49 of the Code of Federal Regulations, Part 659.

FTA's SSO program offers a unique approach to oversight. This approach was recommended by the (NTSB as the result of their extensive study of oversight options for rail transit. The design of the program places primary responsibility for rail transit safety oversight with the States. FTA is responsible for setting minimum requirements to be met by the States and rail transit agencies, and for monitoring implementation of the program. After over a decade of experience with this program, we believe it is an effective model.

The first few years of the program were challenging ones. When the rule was published, only five States had existing oversight programs, and not one of these programs fully met FTA's requirements. Between 1995 and 1998, we worked closely with the affected States and rail transit agencies to ensure that resources were devoted to establish the oversight agencies, and that these agencies were led by technically competent managers. In addition, the rail transit agencies did their part to provide familiarization training to oversight personnel regarding their organizations, operations, procedures, challenges and needs.

Through the Transportation Safety Institute (TSI) and the National Transit Institute (NTI), FTA established a comprehensive safety training program addressing a range of technical issues faced by industry. This training was provided free of charge, and has been given to the majority of SSO agencies and representatives from the affected rail transit safety and security departments. FTA believes this training is critical to ensure that all personnel involved in implementing the SSO program develop core competencies in rail transit safety.

To further fulfill our obligation to monitor the SSO program implementation, FTA initiated compliance audits of SSO agencies in the fall of 1998. This is an extensive program comprised of pre-audit interviews and document reviews, on-site program examination, and generation of a final audit report, delivered in draft form to the SSO agency at the Exit Interview. Through this program, between 1998 and 2005, FTA effectively identified and resolved over 220 findings at the State agencies.

To address the special needs of new States and rail transit agencies joining the program, we also conducted Safety and Security Readiness Reviews (SSRRs). Since 1999, seven

States and seven rail transit agencies have joined the program. FTA has worked with each of these States and rail transit agencies to review their programs, evaluate their initial submissions, provide technical assistance, and ensure compliance with the program requirements.

FTA also established an annual report that is submitted by the SSO agencies documenting their oversight activities for the year and collecting detailed information regarding the rail transit accidents occurring in their jurisdictions.

Based on the results of the SSO audit program, the SSRRs and annual reports, as well as input from NTSB and the Federal Railroad Administration (FRA) – with whom we share oversight for several light rail systems with shared use track or limited connections to the general railroad system, FTA initiated work on a revision to its rule in 2003. On April 29, 2005, our revised final rule was published, with an effective date of May 1, 2006.

The revised rule clarifies that program requirements apply in situations where rail transit agencies are built entirely with State and local funds, but plan to receive FTA formula funds during revenue service. Examples of these systems include Houston Metro's light rail and New Jersey Transit's RiverLINE. The revised rule also addresses an NTSB recommendation regarding the need for proficiency and efficiency testing for operations and maintenance personnel. Finally, the revised rule improves oversight of internal safety and security auditing at rail transit agencies; expands the role of the oversight agency in the hazard management process; promotes consistency between FTA's National Transit Database (NTD) and oversight agency accident notification and investigation thresholds; and clarifies requirements for security.

On May 1, FTA received the required initial submissions from each of the 26 affected SSO agencies. FTA has completed its evaluation of these submissions, and is now working with the SSO agencies and rail transit agencies to address identified deficiencies and concerns. FTA anticipates that the SSO agencies will be in full compliance with the revised rule by October 1, 2006.

SAFETEA-LU Changes

Last year, SAFETEA-LU amended the SSO program. First, SAFETEA-LU requires that the program be extended to rail transit projects that are in the design phases. Second, SAFETEA-LU clarifies that in those instances where a rail transit agency operates across State lines, the rail transit agency should not be subject to more than one set of safety oversight standards.

FTA is working to address both of these changes, and will be preparing a notice of proposed rulemaking (NPRM) for publication in the *Federal Register*. Regarding the role of SSO agencies in projects in the design phase, we have increased coordination with our Regional Offices, and now invite the SSO agencies to all Quarterly Review Meetings conducted for New Starts projects in their jurisdictions. We are also requiring Safety and Security Management Plans (SSMPs) for all major capital projects. A critical element

addressed in these plans is the grantee's readiness to comply with SSO requirements with the initiation of revenue service. Finally, our Project Management Oversight (PMO) contractors, using the safety and security technical experts on their teams, interface with SSO agencies and personnel during their monthly visits to the projects to identify and resolve any potential issues.

FTA already addressed the multi-State coordination issue in its revised rule, ensuring that in the event multiple States share oversight responsibility, the rail transit agency "is subject to a single program standard, adopted by all affected states."

Program Accomplishments and Areas of Improvement

Mr. Chairman, we can cite numerous examples of the positive effect this program has had on safety in the rail transit industry. I would like to share a few examples with you.

Over the last few years, in Massachusetts, the oversight agency, Massachusetts Department of Telecommunications and Energy (MDTE) has worked closely with the Massachusetts Bay Transportation Authority (MBTA) in Boston to resolve hazards resulting from the introduction of low-floor rail transit vehicles into that agency's operations. MDTE activities resulted in a significant re-engineering effort. Retrofitted vehicles are now being tested and phased into service.

In New York, during the late 1990s, the oversight agency, New York State Public Safety Board (PTSB), played a critical role in evaluating New York City Transit's (NYCT) decision to implement one-person-train operation (OPTO) pilot programs on five shuttle lines. PTSB worked closely with NYCT to ensure sufficient countermeasures were in place to allow the removal of the conductor from the trains. The next phase of this pilot involves integration of NYCT's new communications-based train control system into OPTO service on the Canarsie Line.

The Utah Department of Transportation (UDOT) played a critical role in overseeing the Utah Transit Authority (UTA) as the designated transportation provider during the 2002 Winter Olympics. UDOT worked tirelessly with UTA to ensure that service plans and contracts with the Salt Lake City Olympic Organizing Committee addressed safety and security for all Olympic spectators, and that loaned vehicles from Dallas were safely integrated into UTA's Olympic service plan. During the two weeks of the games, UTA's Olympic Spectator System carried a total of over 2.5 million passengers without a single safety incident.

New Jersey Department of Transportation (NJDOT), which oversees four rail transit systems, has experienced many successes in its program. NJDOT has established a ground-breaking partnership with FRA regarding the management of track waivers for systems in Newark and southern New Jersey. In addition, NJDOT has provided effective oversight to the nation's first public transportation public-private partnership using a "DBOM" (design/build/operate/maintain) contract. The approach used by NJDOT to

managing the DBOM process to address safety and security has become a model throughout the country and in other modal transportation projects using DBOM contracts.

Finally, the Colorado Public Utilities Commission (CoPUC) in partnership with the Denver Regional Transportation District (RTD), has worked effectively to overcome resource challenges at both agencies. Colorado PUC proposed combining its three-year safety and security review process with Denver RTD's internal safety and security auditing process.

Performance Measures

As you may sense from these examples, it is difficult to quantify the benefits that correlate directly to the SSO program. Developing performance measures has been on our agenda for several years. Fortunately, as I stated during my introduction, the safety record of rail transit is better than any other mode of transportation. This good news makes it difficult to measure improvement, especially when the statistics that need to be evaluated are measured in fragments of percentages rather than whole numbers.

Currently we are working to develop performance measures and to establish a performance measurement program that can yield statistical data to document and substantiate anecdotal evidence of success on an industry-wide level**.**

Going to the "next level" of performance measures poses some unique challenges. It is difficult to "prove the negative" of an accident or incident that was prevented through the SSO program. Technically, it is also a challenge to achieve statistical significance in performance measures for the rail transit industry based on what is—quite fortunately—a low number of accidents and incidents. Nevertheless, we are committed to documenting industry performance as it relates to specific activities in the SSO program—and we are committed to establishing strategic goals and performance measures for the program by the end of fiscal year 2006.

As a first step we have developed a plan to collect and evaluate existing NTD and data submitted by the States' Safety Offices, and we will soon release our *Rail Transit Safety Action Plan*. We plan annual updates of that plan based on ongoing data to report to the SSO community on how well we are collectively doing.

In a more ambitious step, we are conducting a cutting-edge study with Oklahoma State University (OSU) to develop a performance program to assess the benefits of SSO and rail transit program that moves beyond accident data. With the completion of the OSU study we anticipate being able to use performance measures to capture less tangible but no less important safety measures, such as how well rail transit employees are complying with safety rules and procedures; measures of how passengers perceive safety and security; measures of "near misses;" and measures that express the safety benefits from specific design features or operating procedures.

Finally, to assess implementation of the revised rule, we are modifying our SSO compliance audit program to collect additional information to support program performance measures. During the three-year period between October 2006 and September 2009, we will audit each of the 26 SSO agencies. Using a set of web-based tools, we will be able to capture and report critical program information obtained from the States during the audits. Examples of the types of data we will be able to collect include the following: the level of resources devoted to the program, training and certifications obtained by the SSO program managers, the functions performed by contractors, hazards identified and managed by the program, the development of corrective action plans, and the time required to address them."

Training

Another important issue that we are dedicating thought, resources, and time to concerns the training of SSO staff and program managers. We have always recognized the importance of this training, although we do not have the authority to mandate specific certification requirements or stipulate minimum levels of experience or education.

Since 2000, FTA has encouraged the SSO program managers to complete a Transportation Safety Institute (TSI) safety and security certification program. FTA also provides training on a range of other topics through the NTI.

All in all, staff and program managers have availed themselves of these safety and security training options. The majority of SSO program managers have taken at least three of the TSI courses.

Management training on the conduct of oversight is not yet as robust as the safety and security training options. We are taking several steps to assist States in ensuring the technical expertise of the personnel assigned to manage the program. In recognition of the limited State funds available for management training, FTA is working with TSI to revise its course on Transit Rail System Safety so that it includes several modules specifically for program managers. This course will be piloted in-house in August of this year.

We have also secured funds to continue at least one invitational workshop for program managers each year. Finally, we will be conducting a survey of SSO program managers to identify training gaps and needs. Overall, given the small population of SSO program managers and the specialized, idiosyncratic types of activities they perform, FTA believes that invitational workshops will prove the best forum for management training.

Coordination with the Department of Homeland Security's Transportation Security Administration (TSA)

Finally, we are working to improve coordination between the SSO agencies and the new TSA Surface Transportation Security Inspection Program (STSIP) and FRA with regard to the rule's security requirements. The Federal Government is partnering a select group

of SSO agencies and rail transit agencies to develop a “model program” to establish a framework through which the SSO agencies and the Federal Government can work together. In sessions throughout the summer, we will work with our government and industry partners to complete the draft “model program,” which will be presented to the SSO agencies and rail transit agencies for discussion and further refinement during a day-long session at the 10th Annual SSO Workshop in September. Final guidance will be published to clarify the roles and responsibilities for SSO agencies in the spring of 2007.

Conclusion

Since its inception in 1991, the SSO program has contributed to rail and transit safety, and has proven its merits as a sound, successful oversight program. As with any safety program, it is always a work in progress. FTA and those with whom we collaborate proactively seek ways to continuously improve and better measure performance. The SSO program had been further improved by FTA's own efforts in April 2005 to clarify the rule and later by SAFETEA-LU’s amendments. Today, we are continuing to refine the program and move it forward by working to implement statistical performance measures, and to improve SSO community training.

And now I'd be happy to answer any questions that you might have. Thank you.